BILL NO. S-80-04-26

SPECIAL ORDINANCE NO. S-50-80

AN ORDINANCE approving an Agreement with Hamilton Hunter, Inc., for construction of a sanitary sewer.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the Agreement dated April 14, 1980, between the City of Fort Wayne, by and through its Mayor and the Board of Public Works and Hamilton Hunter, Inc., Developer, for:

SANITARY SEWER

Beginning at an existing manhole located 12± L.F. north of and 21± L.F. west of the Northeast corner of Lot #9 Northway Gardens Addition; thence southeasterly 25± L.F. to a proposed manhole located on the East property line of said Lot #9 4± L.F. south of the Northeast Corner; thence Easterly 1412± L.F. terminating at a proposed manhole located 7± L.F. east of and 4± L.F. south of the Northwest corner of Lot #24 of said Northway Gardens Addition.

of which the developer shall pay the entire cost and expense of the construction of said sewer, all as more particularly set forth in said agreement which is on file in the Office of the Board of Public Works and is by reference incorporated herein, made a part hereof and is hereby in all things ratified, confirmed and approved.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and approval by the Mayor.

Councilman

APPROVED AS TO FORM AND LEGALITY APRIL , 1980.

JOHN E. HOFFMAN
City Attorney

Read the first time in full and on motion by Burns, seconded by Haw, and duly adopted, read the second time by title and referred to the Committee City Utilities (and the City Plan Commission for recommendation) and Public ~~Hearing~~ to be held after due legal notice, at the ~~Council Chambers, City-County~~ Building, Fort Wayne, Indiana, on ~~the~~ day of , 19 , at o'clock M.,E.S.T.

DATE: 4/22/80

CHARLES W. WESTERMAN
CITY CLERK

Read the third time in full and on motion by Burns, seconded by Eisbart, and duly adopted, placed on its passage. PASSED (~~LOST~~) by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	8			1	
BURNS	X				
EISBART	X				
GiaQUINTA	X				
NUCKOLS	X				
SCHMIDT, D.	X				
SCHMIDT, V.	X				
SCHOMBURG	X				
STIER	X				
TALARICO				X	

DATE: 5-13-80

CHARLES W. WESTERMAN - CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (~~ZONING MAP~~) (~~GENERAL~~) (~~ANNEXATION~~) (SPECIAL) (~~APPROPRIATION~~) ORDINANCE (~~RESOLUTION~~) No. S-50-80 on the 12th day of May, 1980.

ATTEST: (SEAL)

CHARLES W. WESTERMAN - CITY CLERK

Vivian G. Schmidt
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 14th day of May, 1980, at the hour of 11:30 o'clock A.M.,E.S.T.

CHARLES W. WESTERMAN - CITY CLERK

Approved and signed by me this 16th day of May 1980, at the hour of 4 o'clock P M.,E.S.T.

WINFIELD C. MOSES, JR.
MAYOR

BILL NO. S-80-04-26

REPORT OF THE COMMITTEE ON CITY UTILITIES

WE, YOUR COMMITTEE ON CITY UTILITIES TO WHOM WAS REFERRED AN ORDINANCE approving an Agreement with Hamiton Hunter, Inc., for construction of a sanitary sewer

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE DO PASS.

PAUL M. BURNS, CHAIRMAN

BEN EISBART, VICE CHAIRMAN

JOHN NUCKOLS

MARK GiaQUINTA

ROY SCHOMBURG

5-13-80
DATE

CONCURRED IN
CHARLES W. WESTERMAN, CITY CLERK

69-7-6 4/14/80
69-7-6 H.I.

AGREEMENT

FOR

SEWER EXTENSION

THIS AGREEMENT, made in triplicate this 14th day of April, 1980, by and between Hamilton Hunter, Inc., hereinafter referred to as "DEVELOPER", and the CITY OF FORT WAYNE, INDIANA, an Indiana municipal corporation, hereinafter referred to as "CITY",

WITNESSETH:

WHEREAS, the DEVELOPER desires to construct a sanitary sewer described as follows:

Sanitary Sewer

> Beginning at an existing manhole located 12± L.F. north of and 21± L.F. west of the Northeast corner of Lot #9 Northway Gardens Addition; thence southeasterly 25± L.F. to a proposed manhole located on the East property line of said Lot #9 4± L.F. south of the Northeast Corner; thence Easterly 1412± L.F. terminating at a proposed manhole located 7± L.F. east of and 4± L.F. south of the Northwest corner of Lot #24 of said Northway Gardens Addition.

Said sanitary sewer shall be 8 inches in diameter, in accordance with plans, specifications, and profiles heretofore submitted to the CITY and now on file in the Office of the Chief Engineer of the Water Pollution Control Engineering Department of the CITY and known as Northway Gardens Addition Sanitary Sewer Extension, which plans, specifications and profiles are by reference incorporated herein and made a part hereof, which sewer will serve not only land in which the DEVELOPER has an interest, but also adjoining land areas

WHEREAS, the cost of construction of said sewer is represented to be $31,403.00 composed of $29,963,00 for construction costs and $1,440.00 for consultant engineering.

NEW THEREFORE, in consideration of the foregoing and the mutual covenants and agreements hereinafter set forth, the parties hereto agree as follows:

1. CONSTRUCTION OF SEWER

The DEVELOPER shall cause said sewer to be constructed and located in accordance with said plans, specifications, and profiles,

all approved by the CITY, under private contract with CITY approval. All work and materials shall be inspected by the CITY and conform with all CITY standards and specifications. Upon completion, said sewer shall become the property of CITY and all further maintenance thereafter shall be borne by the CITY.

2. COST OF CONSTRUCTION

The DEVELOPER agrees to pay the entire cost and expense of construction of said sewer, in cash, and to hold the CITY harmless from any liability for claims connected therewith.

3. AREA OF DEVELOPER

Said sewer, when accepted by the CITY, will initially serve the following described real estate of the DEVELOPER:

Lots 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 27, 28, 29, 30, 31, 32, 33, 35, 36, 37, 38, 39, located in Northway Gardens Addition.

As the DEVELOPER will pay for the entire cost of construction of said sewer as it pertains to the above described area, no charge or assessment is made by this Agreement against the above described real estate for the construction of said sewer, or the use thereof, by the present or future owners of said aforedescribed real estate, except as to such standard tap-in and inspection fees as are customarily charged by the CITY for connections to CITY sewer main.

An area connection charge of $475.00 per acre must be paid to CITY at the time of connection by the DEVELOPER for area aforedescribed which is served by the herein described sanitary sewer. The area connection charge represents the oversizing cost expended by CITY for St. Joseph Interceptor Resolution 61-140-11

4. CHARGE AGAINST EXCESS AREA

Said sewer, however, also serves an additional or excess area as shown on the attached Exhibit "A". In the event any present or future owner of real estate shall at any time within fifteen (15) years of the date of this agreement, desire to use said sewer or any extension thereof, whether by direct tap or through the extension or connection of lateral or local lines to service such land, CITY, through its duly constituted authorities, before permitting such use,

shall require by contract or assessment, as may be appropriate, that such owner or owners of said excess area pay to the CITY, in addition to the costs of standard tap-in and inspection fees, the sum of $0.06971 4/H ~~$0.07987~~ per square foot for the area served by each such connection and use, which represents the pro rata share of the cost of the extension of the CITY sewer to said area. Any amount so collected by the CITY shall be paid by the CITY within sixty (60) days of the receipt thereof to the DEVELOPER.

An area connection charge of $475.00 per acre must be paid to CITY at the time of connection by any such owner or owners of any excess area sought to be served by the herein described sanitary sewer. This area connection charge is in addition to the local charge as set forth above, and represents the oversizing cost expended by CITY for St. Joseph Interceptor Resolution 61-140-11.

5. BOND

This contract is subject to DEVELOPER furnishing a satisfactory Performance and Guaranty Bond for the value of the sewer, said bond to serve as a guarantee of said sewer against defects for a period of one (1) year from the date of final acceptance of said sewer by the CITY.

6. LIMITATION ON USE

Said sewer shall be constructed for disposal of sanitary sewage only and neither the parties hereto, their successors, or assigns, or any future owner of any land serviced by said sewer, shall at any time discharge or permit to be discharged or to flow into said sanitary sewer, any water run-off caused by natural precipitation or anything other than sanitary sewage or contaminated waste.

7. WAIVER OR RIGHT TO REMONSTRATE AGAINST ANNEXATION

The DEVELOPER, for itself, its successors in title and assigns, waives and releases any and all rights which it may now or hereafter have to remonstrate against or otherwise object to, interfere with or oppose any pending or future annexation by CITY of any territory now or hereafter owned by him, ~~as described in Article 3 herein~~.

The DEVELOPER further agrees that any deeds, contracts, or other

instruments of conveyance made by the DEVELOPER, its successors or assigns transferring or conveying any interest or title in and to any of the real estate described in Article 3 herein, shall contain the waiver and release provisions contained in this article, which provisions shall run with the land and the acceptance of the delivery of any such instrument from the DEVELOPER, his successors and assigns by any grantee, vendee, or contract purchaser, shall be made subject to the terms of this Agreement and shall constitute an acceptance of the foregoing provisions by said grantee, vendee or contract purchaser and their successors in title.

The DEVELOPER further agrees to record an executed copy of this contract in the Allen County Recorder's Office within ten (10) days of its adoption and approval by the Common Council of CITY as hereinafter provided. Any owner or owners of property which is now, or hereafter, located outside the corporate limits of City who connect into the sewer constructed hereunder shall be deemed to thereby waive his, her, their or its right to remonstrate against or otherwise object to, interfere with or oppose any pending or future annexation by City of such land or of the territory in which it is located or of the area served by said sewer.

8. GOVERNING STATUTE

It is the intention of the parties hereto to utilize and take advantage of and apply to this Agreement the provisions of Section 16, 17 and 18 of Chapter 128 of the Acts of 1967 of the State of Indiana (I.S. 19-2-7-16, I.C. 19-2-7-17 and I.C. 19-2-7-18), the provisions of which Sections shall govern with respect to any matters not specifically outlined herein.

9. COUNCILMANIC APPROVAL

It is understood and agreed that this contract is in all respects subject to approval by the Common Council of City, by duly adopted ordinance, and if such Ordinance is not adopted within a period of ninety (90) days after execution thereof, this contract shall be null and void and of no further force and effect.

IN WITNESS WHEREOF, the parties have subscribed to this Agreement the day and year first above written.

CORPORATE SECRETARY:
JOY M. HUNTER

Attest Joy M. Hunter
Joy M. Hunter

DEVELOPER: HAMILTON HUNTER, INC.

By Hamilton Hunter Jr.
Hamilton Hunter, Jr., President

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public, in and for said County and State, personally appeared Hamilton Hunter, Jr., and Joy M. Hunter, as President and Corporate Secretary, of Hamilton Hunter, Inc., by who acknowledged the execution of the foregoing agreement for sewer extension as and for its voluntary act and deed for the uses and purposes therein contained.

WITNESS my hand and notarial seal this 11 day of March 1980.

Donald A Ankenbruck
NOTARY PUBLIC
Resident of Allen County

My Commission Expires:
October 19, 1982

CITY OF FORT WAYNE, INDIANA

By _____
WIN MOSES, JR., MAYOR

BOARD OF PUBLIC WORKS

By _____
MARK L. AKERS, CHAIRMAN

By _____
HERBERT R. GAMACHE, MEMBER

By _____
ROBERTA ANDERSON STATEN, MEMBER

ATTEST:

_____
SANDRA E. KENNEDY, CLERK

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned a Notary Public, in and for said County and State, personally appeared Win Moses, Jr., Mark L. Akers, Herbert R. Gamache and Roberta Anderson Staten, known to me to be the Mayor and the Members of the Board of Public Works, and Sandra E. Kennedy, Clerk of the Board, said Board of the City of Fort Wayne, Indiana, respectively, and acknowledged the execution of the foregoing contract to be the voluntary act and deed of said City.

WITNESS my hand and Notarial Seal this 14 day of April, 1980.

_____
Notary Public
Resident of Allen County, Indiana

My Commission Expires:

3-6-84

APPROVED AS TO FORM & LEGALITY:

_____
ASSOCIATE CITY ATTORNEY

"A"

OWNED BY DEVELOPER

REV... Oct 29, 1957

25-61

NORTHWAY GARDENS

ADDITION

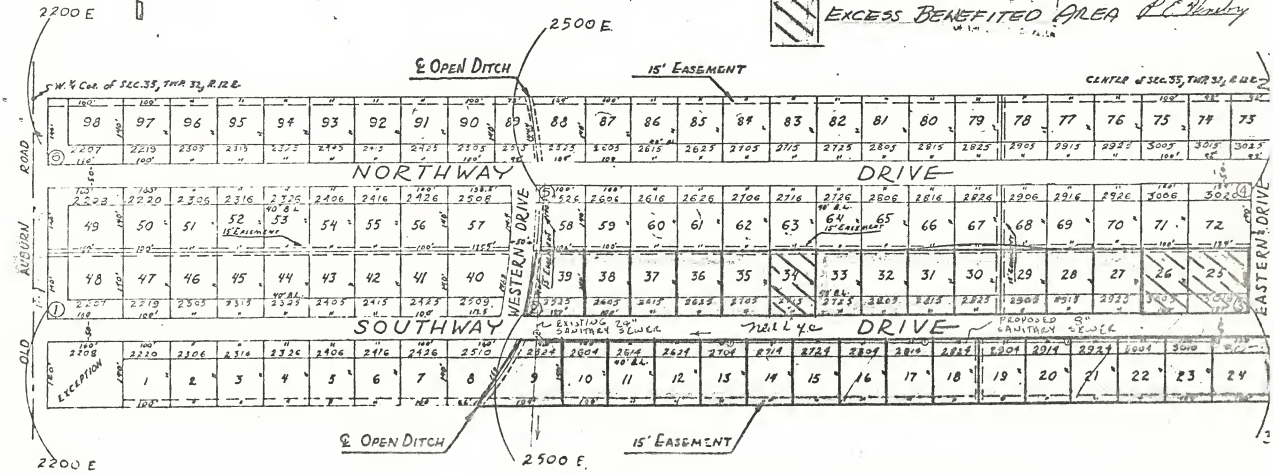
Approved by the Board of Allen County Commissioner

[illegible] 1956

Samuel Cook

P. C. Kenebry

EXCESS BENEFITED AREA



BENEFITTED AREA	PROPERTY OWNERS	LOCAL SEWER EXT. COST PER SQ. FT.	AREA IN SQ. FT.	LOCAL SEWER EXT. COST PER P.O.	AREA CONN. FEES DUE CITY UTIL @ 475/Ac	PROJECT COST TOTALS PER PROP. OWNER
Lot 9	Hamilton Hunter, Inc.	0.06971	19,180	1337.10	209.17	1546.27
10	" " "	"	14,000	976.01	152.66	1128.67
11	"	"	"	"	"	"
12	"	"	"	"	"	"
13	"	"	"	"	"	"
14	"	"	"	"	"	"
15	"	"	"	"	"	"
16	"	"	"	"	"	"
17	"	"	"	"	"	"
18	"	"	"	"	"	"
19	"	"	"	"	"	"
20	"	"	"	"	"	"
21	"	"	"	"	"	"
22	"	"	"	"	"	"
23	"	"	14,000	"	"	"
24	"	0.06971	18,200	1268.78	198.48	1467.26
25	Wallace W. Ruggles	0.06971	18,760	1307.82	204.59	1512.41
26	"	0.06971	14,000	976.01	152.66	1128.67
27	Hamilton Hunter, Inc.	"	"	"	"	"
28	"	"	"	"	"	"
29	"	"	"	"	"	"
30	"	"	"	"	"	"
31	"	"	"	"	"	"
32	"	"	"	"	"	"
33	"	"	"	"	"	"
34	Robert L. Jones	"	"	"	"	"
35	Hamilton Hunter, Inc.	"	"	"	"	"
36	"	"	"	"	"	"
37	"	"	"	"	"	"
38	"	"	"	"	"	"
39	Hamilton Hunter, Inc.	0.06971	16,310	1137.03	177.87	1314.90
			450,450	31,403.00	4911.93	36314.93

The tap in fees for those lots owned by Hamilton Hunter, Inc. are hereby waived.

Hamilton Hunter Jr

TITLE OF ORDINANCE SPECIAL ORDINANCE - AGREEMENT FOR SEWER EXTENSION - NORTHWAY GARDENS ADDITION

DEPARTMENT REQUESTING ORDINANCE BOARD OF PUBLIC WORKS 2-80-04-26

SYNOPSIS OF ORDINANCE AGREEMENT FOR SEWER EXTENSION FOR CONSTRUCTION OF A SANITARY SEWER LINE TO SERVE AREA OF NORTHWAY GARDENS ADDITION, HAMILTON HUNTER, INC., DEVELOPER FOR THE PROJECT.

(AGREEMENT ATTACHED)

EFFECT OF PASSAGE CONSTRUCTION OF SANITARY SEWER LINE TO SERVE ABOVE-DESCRIBED AREA

EFFECT OF NON-PASSAGE

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) DEVELOPER TO PAY ENTIRE COST

ASSIGNED TO COMMITTEE City Util.

EP